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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,254	04/01/2004	Pat Y. Mah	MAH-43	1786

7590

02/16/2006

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EXAMINER

LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No. 10/817,254	Applicant(s) MAH, PAT Y.	
	Examiner Edward F. Landrum	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input checked="" type="checkbox"/> Other: <u>Foreign Patent</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Pogetti et al (German Patent No. DE 3830934 A1).

Pogetti teaches (see Figures 1-9) first and second members each having both a jaw portion and a handle portion. There is a pivot point (8) separating the jaw and handle portions of each member. The first and second handle members each contain magnets which have the same polarity, therefore each handle member exerts a repulsive force on the other. As shown in Figure 4, the magnets can be placed anywhere on either handle and the handle could include multiple magnets. Figure 7 shows that the magnets do not need to be directly across from each other to work. Furthermore Pogetti teaches the first and second jaws are scissor jaws and form a scissor set.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frazer (U.S Patent No. 6,282,997) in view of Pogetti.

Frazer teaches (see Figure 20) first and second members each having both a jaw portion and a handle portion. There is a pivot point separating the jaw and handle portions of each member. The handle members are spring biased. The spring is located between the first handle member and a tool handle which supports the second handle portion. The second handle is also pivotally deployable relative to the tool handle. The first and second jaws are scissor jaws and form a scissor set. The tool handle has at least one other tool member attached to it.

Frazer teaches all of the elements of the current invention as stated above except for the use of magnets to force the first and second handle members away from each other.

Pogetti teaches (see Figures 1-9) first and second members each having both a jaw portion and a handle portion. There is a pivot point (8) separating the jaw and handle portions of each member. The first and second handle members each contain magnets which have the same polarity, therefore each handle member exerts a repulsive force on the other. As shown in Figure 4, the magnets can be placed anywhere on either handle and the handle could include multiple magnets. Figure 7 shows that the magnets do not need to be directly across from each other to work, but could be placed at any location which offers enough of a repelling force to adequately force away each handle member from the other while still allow a user to easily cut a material.

It would have been obvious to have modified Frazer to incorporate the teachings of Pogetti to replace the metal spring with a pair of magnets. Using magnets instead of metal springs would eliminate moving parts that could become jammed or bent after excessive use. The magnets could be placed at any location which would allow the user to still easily use the scissors while still offering a sufficient repelling force to allow the blades to open again for the next cut.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Frazer in view of Bradbury et al (U.S Patent No. 5,513,405), hereinafter Bradbury.

The modified device of Frazer teaches all of the elements of the current invention as stated above except that at least one of the first or second magnets is available externally when the scissor unit is stored in the tool handle.

Bradbury teaches (Col. 4, lines 51-54) a multipurpose cutting tool with a magnet attached externally to the tool to distinguish steel from other metallic recyclables like aluminum.

It would have been obvious to have modified the modified device of Frazer to incorporate the teachings of Bradbury to keep one of the two magnets already incorporated into the scissors of the multipurpose unit available externally of the tool handle to increase the tool's overall utility by allowing a user to accurately distinguish between different types of metals.

Conclusion

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Janky (U.S Patent No. 5,815,866) teaches scissors which use magnets to both attract and repel the handles from each other. Zajdel (U.S Patent No. 6,865,816) , and Lamond et al (U.S Patent No. 6,233,830) teach magnets placed in a tool handle for the purpose of repelling one or more parts of the handle.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFL
2/8/2006


Allan N. Shoap
Supervisory Patent Examiner
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